

In the Office Action, claims 17 and 18 stand rejected under 35 U.S.C. §112, first paragraph. By this Amendment, those claims have been cancelled and, therefore this rejection is no longer applicable.

Claims 10-17 have also been rejected under the doctrine of double patenting as being "a substantial duplicate of claims 1-6". However, it is pointed out that independent claims 1 and 10 are of substantially different scope from each other. Claim 1 recites that the channel has "an outer span greater than the span across the open end of the channel". This limitation is not present in claim 10. Also, claim 10 recites that the fluid conduit "has a starting diameter larger than the depth of the channel and being disposed in said channel by being deformed using the channel as a mold, wherein following deformation the portion of said fluid conduit ... has a flattened surface". This limitation is not present in claim 1. Accordingly, it is believed that there is a sufficient difference in scope between the devices of claims 1 and 10 to overcome the Examiner's double patenting rejection.

Turning now to the Examiner's objection regarding the reissue Declaration, that Declaration states that "the patentee claimed more or less than he had the right to claim in the patent" and, that "the error arose without deceptive intent on the part of the applicant". According to M.P.E.P. § 1414(i.), p. 1400-22 (8<sup>th</sup> Ed., August 2001), that language is all that is required to satisfy the requirements of 37 C.F.R. § 1.175. See also *Shockley v. Arcan, Inc.*, 58 U.S.P.Q.2d 1692, 1697 (Fed. Cir. 2001) ("The new rule . . . requires the patentee to disclose only a single error for correction and to include only a general statement that the errors involved no deceptive intent."). These statements, alone, it is submitted, satisfy the requirements of Rule 1.175 (a) as it now stands.

During a November 27, 2001 telephone conversation between the Examiner and the undersigned, the Examiner advised that the reissue Declaration is defective because it fails to identify even a single word, phrase, or expression in an original claim, and how it renders the original patent inoperative or invalid. That is not the test for the sufficiency of Rule 175(a)(1) as it now stands.

Prior to December 1, 1997, Rule 1.175(a)(3) obliged a reissue applicant who asserted that he claimed "more or less than he had the right to claim in the patent" to "distinctly specify[] the excess or insufficiency in the claims." Under that rule, a reissue applicant had to state at least one word, phrase or expression that rendered the claim wholly or partly invalid.

As of December 1, 1997, which is the effective date of the current Rule 175(a)(1), all that is now required is that the applicant state "at least one error being relied upon as the basis for reissue." The "distinctly specify[]" language has been removed from the rule.

The reissue Declaration identifies the error as "by reason of the patentee claiming more or less than he had the right to claim in the patent." This language clearly and understandably states the "error being relied upon as the basis for reissue". Therefore, it is respectfully submitted that the reissue Declaration complies fully with the requirements of 37 C.F.R. § 1.175(a)(1) as it now stands.

Inasmuch as all the issues raised in the October 11, 2001 Office Action have now been satisfactorily addressed, it is requested that the application proceed to allowance.

It is believed that no fees or charges are required at this time in connection with the present application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

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Edward M. Weisz

Reg. No. 37,257

551 Fifth Avenue, Suite 1210

New York, New York 10176

(212) 687-2770

Dated: January 11, 2002